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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,134	09/17/2003	Kamal Ramzipoor	1001.1702101	3475
28075 7590 06/08/2010 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420				
EXAMINER				
OU, JING RUI				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
06/08/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/664,134

Applicant(s)

RAMZIPOOR ET AL.

Examiner

JING OU

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-51, 55, 57 and 58 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 49-51, 55, 57, and 58 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 April 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the amendment filed on 04/28/2010. Claims 49-51, 55, 57, and 58 are pending. Claims 1-48, 52-54, 56, and 59-65 are cancelled.

Specification

2. The amendment filed 04/28/2010 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The drawing submitted on 04/28/2010 contains new matter, such as the relative sizes/widths of the wire at different region of the wire with respect to other regions of the wire. In the specification on page two of the remarks submitted on 04/28/2010, the relative widths of the wire at different regions ("A", "B", and "C") with respect to other regions of the wire are not supported by the original disclosure. In addition, the recitation "In some embodiments, the distal taper may be more gradual than the proximal taper. In some other embodiments, distal taper may be at least twice as long as the proximal taper. In yet another embodiments, the transition between distal region width "A" and first proximal width "B" may be abrupt" Is not supported by the original disclosure

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 49-51, 55, 57, and 58 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In Claims 49, the recitation "that is greater than the width of the distal region of the wire proximal of the distal tip and wherein the distal tip has a second width distal of the first proximal width that is less than that of the first proximal width of the distal tip; wherein the distal region includes a distal taper and a proximal taper such that the distal taper is more gradual than the proximal taper" does not have sufficient support in the original disclosure and is considered as new matter. In Claim 55, the recitation "wherein the wire is configured to move rapidly along the longitudinal axis of the lumen proximally and distally" does not have sufficient support in the original disclosure and is considered as new matter. In Claim 57, the recitation "wherein the distal taper transitions gradually from the first proximal width to the second width of the distal tip" does not have sufficient support in the original disclosure and is considered as new matter. In Claim 58, the recitation "wherein the distal taper is at least twice as long as the proximal taper" does not have sufficient support in the original disclosure and is considered as new matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 49-51, 55, 57, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Sepetka et al (US Pub. No.: 2002/0072764).

In regard to Claims 49-51, 55, 57, and 58, Sepetka et al discloses a device comprising: a catheter (4, Fig. 10), a vacuum source (135, Fig. 10) fluidly attached to the proximal end of the catheter to provide a source of vacuum to the catheter lumen; and a wire (108, Fig. 11) having a proximal end and distal end and a distal region proximal the distal end, said distal region including a distal tip, said wire being at least partially disposed in the catheter lumen (Fig. 11).

Response to Arguments

7. Applicant's arguments with respect to claims 49-51, 55, 57, and 58 have been considered but are moot in view of the new ground(s) of rejection.

As noted above, all of the claimed structure is found in the reference and the examiner contends that the prior art is capable of performing the claimed functions.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JING OU whose telephone number is (571)270-5036. The examiner can normally be reached on M-F 7:30am - 5:00pm, Alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Uyen (Jackie) T Ho can be reached on (571)272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. O./
Examiner, Art Unit 3773
06/04/2010

/(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773